IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3242 of 2003

with

CIVIL APPLICATION NO.4033 OF 2003

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PHARMA LAB ENGINEERING (INDIA)PVT LTD

Versus

RAMAJI AMBALAL THAKORE

Appearance:

1. Special Civil Application No. 3242 of 2003

MR KUNAL NANAVATI for NANAVATI ASSOCIATES

for Petitioner No. 1

MR DJ BHATT for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 25/09/2003

ORAL JUDGEMENT

Heard learned advocate Mr. Kunal Nanavati appearing on behalf of the petitioner and learned

advocate Mr. D.J.Bhatt appearing on behalf of respondent workman.

2. The present petition is filed by the petitioner Company challenging the award passed by the Labour Court, Kalol in Reference No. 552 of 1996 wherein Labour Court has passed an award on 3.10.2002 granting the reinstatement with continuity of service with 50% backwages of interim period.

3. When the matter has been taken up for hearing, there was some negotiation between the parties to settle the matter outside the Court. The suggestion of Mr. Nanavati is of Rs. 20,000/-. But there is hitch on exact amount from the Company in respect to the claim of workman arising out of award. The suggestion from Mr. Bhatt is Rs.30,000. Both the learned advocates have left this matter to fix particular figure in light of the facts and circumstances of the present case.

4. I have considered the suggestions made by both the learned advocates and also considering the fact that workman had worked with the Company at the relevant time prior to termination about more than one year and the interim period from the date of termination dated 30.11.1995 to 3.10.2002 comes to 7 years and at the relevant time when the workman was appointed he was receiving Rs.40/- per day salary from the Company. From the date of award dated 3.10.2002 though there is order passed by this Court granting the benefit under Section 17(B) of the Industrial Disputes Act, 1947 but because of gainful employment of the workman amount in question has not paid and that is how for the modification of that order Civil Application No. 4033 of 2003 is filed by the petitioner Company.

5. Considering the over all circumstances, according to my opinion, if the workman is satisfied with entire claim granted in the award, if Rs.24000/- is paid to the workman by the Company. Both the learned advocates have agreed to this figure. Therefore, considering this fact in respect to the claim of workman arising out of award in question including reinstatement and 50% back wages of interim period, this being full and final settlement for receiving Rs.24000/- from the Company and thereafter workman having no other claim about service benefits against the Company and accordingly question is fully satisfied. This being considered to be a final settlement in respect to the respondent workman with the Company. The workman forego the claim of reinstatement and 50% back wages of interim period. In view of this

fact, it is directed to the petitioner Company to pay Rs.24000/- in the name of respondent No.2 by way of Account Payee Cheque within a period of two weeks from today in light of the award passed by the Labour Court, Kalol in Reference No. 552 of 1996 dated 3.10.2002 is modified to that extent. Rule is made absolute accordingly.

6. Since the main petition is disposed of today, no orders on Civil Application No. 4033 of 2003.

(H.K.Rathod,J)

Jayanti*